

Request for Reconsideration:

Claims 1-5 are pending in the above-captioned patent application. Applicant is amending independent claim 1 to better describe the claimed invention. No new matter is added by the foregoing amendments, and these amendments are supported in the specification, as filed. Applicant respectfully requests that the Examiner reconsider the above-captioned patent application in view of the foregoing amendments and the following remarks.

Remarks:

1. Rejections

Claims 1-5 stand rejected under 35 U.S.C. § 103(a), as allegedly rendered obvious by Patent No. US 6,481,976 B2 to Kimura et al. ("Kimura") in view of U.S. Patent No. 5,332,365 to Taguchi ("Taguchi '365"). Applicant respectfully traverses.

2. 35 U.S.C. § 103(a)

Claims 1-5 stand rejected as allegedly rendered obvious by Kimura in view of Taguchi. In order to establish a prima facie case of obviousness, the Office Action must fulfill three (3) basic criteria. MPEP 2142 and 2143. First, there must be some clear and explicit articulation of the reason(s) why the claimed invention would have been obvious, either in the references themselves or in the knowledge generally available to those of ordinary skill in the art, to modify the primary reference as proposed by the Office Action. Second, there must be a reasonable expectation of success. MPEP 2143.02. To satisfy this criteria, the Office Action must demonstrate that "one skilled in the art could have combined the elements as claimed by known methods with no change in their respective functions, and the combination would have yielded nothing more than predictable results to one of ordinary skill in the art." MPEP 2143.02. Third, the cited references or in the knowledge generally available to those of ordinary skill in the art must disclose or suggest all of the claim limitations. MPEP 2142. For the reasons set forth below, Applicant respectfully submits that the Office Action fails to establish a prima facie case of obviousness.

a. Independent Claim 1

Applicant's independent claim 1 recites, in part: "a fixed partition wall disposed around said valve element at a position in an axial direction of said valve element, a pressure chamber which is partitioned from said valve chamber by said partition wall " and "said pressure relief passageway from said valve chamber to said pressure chamber is formed by a gap between said partition wall and said valve element for forming a non-contact structure which does not give a sliding resistance relative to a movement of said valve element in its axial direction, wherein said pressure relief passageway continuously is open." Thus, in independent claim 1, the partition wall is configured to partition the valve chamber from the pressure chamber and to

form a pressure relief passageway from the valve chamber to the pressure chamber, where the pressure relief passageway continuously is open.

The Office Action asserts that Kimura's second communication passage 58 corresponds to Applicant's claimed pressure relief passageway. See Office Action dated June 5, 2008, page 2. Nevertheless, valve element 44b of Kimura selectively closes the second communicating passage 58 which communicates Kimura's valve chamber 47 and Kimura's pressure chamber 49. See, Kimura, Paragraph [0066]. Thus, Kimura's second communication passage 58 is not continuously open.

Further, the Office Action asserts that Taguchi '365's element 421a corresponds to Applicant's claimed valve chamber, and the chamber below Taguchi's '365's element 482 corresponds to Applicant's claimed pressure chamber. Nevertheless, a valve member 480 of Taguchi '365 selectively closes the passage way between Taguchi '365's element 421a and Taguchi '365's chamber below element 482. See, Taguchi '365, Col. 12, Lines 44-56 and **Fig. 3**. As such, Taguchi '365's passage between element 421a and the chamber below element 482 is not continuously open. Thus, neither Kimura nor Taguchi '365 disclose or suggest that "a fixed partition wall disposed around said valve element at a position in an axial direction of said valve element, a pressure chamber which is partitioned from said valve chamber by said partition wall " and "said pressure relief passageway from said valve chamber to said pressure chamber is formed by a gap between said partition wall and said valve element for forming a non-contact structure which does not give a sliding resistance relative to a movement of said valve element in its axial direction, wherein said pressure relief passageway continuously is open," as set forth in independent claim 1. Therefore, Applicant respectfully requests that the Examiner withdraw the obviousness rejection of independent claim 1 at least for this reason

b. Claims 2-5

Claims 2-5 depend from allowable, independent claim 1. Therefore, Applicant respectfully requests that the Examiner also withdraw the obviousness rejection of claims 2-5 at least for this reason.

Conclusion:

Applicant respectfully submits that the above-captioned patent application, as amended, is in condition for allowance, and such disposition is earnestly solicited. If the Examiner believes that the prosecution of this application may be furthered by discussing the application, in person or by telephone, with Applicant's representative, we would welcome the opportunity to do so. Applicant believes no fee other than the \$810.00 RCE fee (Fee Code 1801) is due as a result of this submission. Nevertheless, in the event of any variance between the fees determined by Applicant and the fees determined by the PTO, please charge or credit any such variance to **Deposit Account No. 02-0375**.

Respectfully submitted,

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Enclosures